

FRANK WAS SEEN BY WITNESSES ON HIS WAY TO AND FROM HOME DAY LITTLE GIRL WAS KILLED

Solicitor Declares That Outburst of Yesterday Should Not Be Allowed and That as There Is Further Unpleasant Testimony to Be Heard, He Suggests That Frank's Wife and Mother Do Not Hear It —Judge Issues Caution

MOTION OF ATTORNEY ROSSER TO STRIKE OUT SENSATIONAL QUESTIONS IS OVERRULED

Solicitor Dorsey's Questions Put to John Ashley Jones Will Stand and the Defense Will Be Forced to Disprove Suggestions Given to Jury by Cross-Questioning Witnesses Whom Solicitor Will Summon in Rebuttal

There were three big features in the Thursday morning session of the trial of Leo M. Frank:

First, the request of Solicitor Hugh M. Dorsey that the mother and wife of the accused be excluded from the court room to prevent an interruption similar to that made by Mrs. Rae Frank Wednesday afternoon. Judge Roan did not grant the request but cautioned the ladies that they must contain themselves.

Second, the overruling of a motion made by the defense to strike from the record the sensational questions and answers reflecting on Frank's character elicited Wednesday afternoon during the examination of John Ashley Jones, a character witness.

Third, a formidable presentation of evidence corroborating Frank's story in reference to his movements on the day of the tragedy.

Through the witnesses who testified Thursday the defense showed that Frank was on his way home at 1:10 o'clock and that he was on his way back to the factory at 2 o'clock. Previously Emil Selig had testified that Frank reached his home at 68 East Georgia avenue about 1:20 o'clock. The superintendent's story of where he was and what he did immediately before immediately after the tragedy has, therefore, been very strongly corroborated.

Miss Helen Curran, of 360 Ashby street, stenographer, whose father works for Montag Bros., and who herself is employed by the Bennett Printing company, testified that she saw Frank in front of Jacobs' Alabama and Whitehall streets store at 1:20 o'clock Saturday afternoon.

Mrs. M. O. Michael, of Athens, aunt of Mrs. Lucile Frank, saw Frank, she testified, in front of her sister's, Mrs. C. Wolfsheimer's home, 387 Washington street, Saturday afternoon about 2 o'clock. Frank came over and spoke to her, she said. Jerome Michael, her son, also saw Frank in front of the Wolfsheimer residence. Mrs. A. B. Leavy, of 69 East Georgia avenue, Mrs. Wolfsheimer, Julian Loeb and Miss Rebecca Carson were other witnesses who testified to seeing Frank either on his way home shortly after 1 o'clock or as he returned to the factory about 3 o'clock.

Cohen Loeb, of 445 Washington street, testified that he rode to the city on the car with Frank as he was returning to the factory about 2 o'clock and that he sat in the same seat with him.

Sig Montag, one of the proprietors of the factory, proved an important witness. In addition to corroborating Frank's statement in reference to his visit to Montag Bros., Saturday morning, Mr. Montag swore that prior to January 1, another concern occupied the floor space which included the point where Conley claimed that he was accustomed to sit when he acted as a "lookout" for Frank and that the negro would hardly have been sitting there. Through Mr. Montag the defense developed that it was he who employed counsel for the defendant without any request for a lawyer having been made by Frank. On cross-examination the solicitor drew from Mr. Montag the admission that the Pinkertons had not yet been paid for their services, that they had made several statements, but had made no requests for payment. Mr. Montag admitted also the finding of the bloody stick and a portion of the payment envelope by the Pinkertons had been reported to him and that he notified Mr. Rosser, but did not notify the police.

Another witness for the defense who gave interesting testimony was Miss Rebecca Carson, forelady at the factory, who swore that Jim Conley said to her on Monday after the murder that he was not at the factory Saturday and that he was so drunk he didn't know what he did or where he was.

Among the witnesses examined during the morning was Charley Lee, employed as a machinist at the factory and well known to public as a prizefighter. Lee whipped "Kid" Young, the idol of the newsies Wednesday night, in the fourth round of a bout at the auditorium.

Attorneys for both the state and the defense continued to contest every point and there were frequent clashes during the morning. Mr. Arnold and Solicitor Dorsey became particularly vigorous in their comments upon each other's manner of conducting the case and at one point a physical encounter was threatened.

When court convened, before the jury was brought in, Solicitor Dorsey addressed the court, asking that Mrs. Lucile Frank and Mrs. Rae Frank, wife and mother respectively, of the accused, be excluded from the court room.

"I appreciate the feelings of the wife and the mother of this defendant," said the solicitor, "but there is going to be much more testimony which will be very objectionable to them. And if we are to have such outbreaks as that one of yesterday, I feel that I must ask your honor to exclude these two ladies from the court as you have excluded all others. I sympathize with them, and I am very sorry for them, but I must ask the court's protection. There's not reason but simply because they are the wife and mother of the accused that they should have any more rights than any one else in this case, and they should not be allowed to give vent to their feelings before the jury."

MR. ARNOLD REPLIES.

Mr. Arnold said: "Without any criticism, I want to say that the solicitor's examination of Mr. Jones yesterday was wholly unwarranted and much more reprehensible than the act of this

man's mother. The solicitor tried to get before the jury in an illegal way specific acts which he could not get before it in a legal way and acts which he knows your honor would have ruled out, as only his general character can be attacked. He had no idea that Jones knew anything about these things to which he referred in his questions. He simply made an appeal to the crowd and to the jury by charging specific acts which he could not get in evidence. Does your honor call that good practice, honorable practice, high-class practice, when a man is on trial for his life? My friend is zealous, maybe over-zealous, but I have no right to criticize. I can only ask that illegal evidence be excluded. The issue in this case had been clouded with a thousand things which should never have been allowed. The jury system is very lame if this sort of evidence is to be admitted. The jurors are honorable men, but they do not know how to separate reflections upon a man from direct evidence in a case.

The state's counsel, a learned and a skillful lawyer, by his suggestions, was much more reprehensible than the mother of this defendant. It is a new doctrine, and I have heard of only other judge in Georgia allowing it to keep the wife and mother from sitting in a court in a man's hour of need. Have we reached such a point in prosecution and persecution that this can be done? I promise no more outbreaks as far as I can control them and I call your honor's attention to the fact that the wife has sat through this whole case without a word and the mother has committed only one little outbreak. Under all circumstances my friend's conduct was much more culpable. He is not justified in doing such things because he is the state's attorney. I don't believe that he will state that he thought Mr. Jones knew anything about these circumstances, for he knows that Jones does not move in [...]

DEFENSE'S MOTION TO STRIKE SENSATIONAL EVIDENCE FAILS

[...] the same sphere with these people. Yet he tried to inject these specific acts to inflame the jury and to inflame the [1 word illegible]."

DORSEY DEFENDS HIS COURSE.

Solicitor Dorsey: "The situation is just this. They have put his character in issue. Your honor knows that I can't bring out specific acts, but that they can by cross examination. I can not call attention to anything that I could not support by the testimony of reputable witnesses, some of whom I consider high-[1 word illegible] ladies. I have a right to contrast what Jones knows about this defendant with what these people know. I know that I couldn't get these specific acts in, but I know that I was acting in perfectly good faith when I put in the defense's hand these things which they can bring out on cross examination from the witnesses that I will put up—if they dare. I am not over zealous in this case. I am doing my duty. I want right to triumphs. I submit that it is unfair to exclude other ladies from the court room and extend the courtesy to the wife and mother, and then let them give vent to such outbursts as that of yesterday. I think it is the duty of the court to prevent such outbreaks.

"I would like to mention the conduct of Mr. Arnold. The courts have ruled that it is highly improper for an attorney to express an opinion about evidence, and yet before I scarcely had finished my question he characterized these charges as lies and it was he who inflamed the mother."

MUST BE NO OUTBREAK.

Judge Roan said, "You are entirely right in your desire to be protected. Other ladies were excluded from the courtroom only on account of the nature of the evidence. And I say now that if there is another outbreak from these ladies, they shall be excluded from the court."

"While the jury is yet out," said Mr. Rosser, "I want to make two motions."

MOVES TO STRIKE EVIDENCE.

Mr. Rosser moved to strike out the questions asked by Solicitor Dorsey of John Ashley Jones, which led to the outbreak by the elder Mrs. Frank in court Wednesday afternoon.

"My brother, Mr. Dorsey, concedes that he can't introduce these specific allegations," said Mr. Rosser, "even in rebuttal, unless we draw them out on cross-examination. Yesterday he said that he wasn't four-flushing and that he intended to prove them. I move to rule out the following questions and answers, and I hope that if you rule with me the solicitor will not ask them again. I am going to keep right after him until he asks legal questions. The inquiries themselves were improper, and therefore the answers were that also."

Mr. Rosser read the questions and answers about alleged specific acts of improper conduct by Frank toward women named in the questions. Mr. Rosser cited authorities to sustain his motion. While Mr. Rosser was reading, Frank, the accused, left his accustomed seat and engaged in earnest conferences with Mr. Arnold at the lawyers' table.

Mr. Dorsey answered, "Your honor ruled with me yesterday that these questions were proper and admissible. I may not ask them again. It will be merely a matter of policy on my part if I do not, however." The solicitor cited the penal code to sustain. "It isn't necessary to refer to decisions to get the law on the subject. The Georgia code itself gives that authority."

Solicitor Dorsey said he had other authorities which he was ready to cite.

MOTION OVERRULED.

Judge Roan, however, signified that he was satisfied, and overruled the motion by Mr. Rosser.

Mr. Rosser's second motion proved to be a suggestion to the court. It was that before certain questions are to be asked of witnesses in regard to a particular fact, the jury be retired. Before

Judge Roan could remark upon the suggestion, Solicitor Dorsey arose and said "I agree to that," and the matter was settled.

Then the jury was brought in and Miss Helen K. Curran was called as the first witness of the defense for the day.

MISS CURRAN TESTIFIES.

Miss Curran said she lives at 160 Ashby street, and is a stenographer with a medicine company and that her father works at Montag Brothers. She said she graduated in shorthand last winter and that her shorthand teacher was Professor Briscoe. She was examined by Attorney Arnold as follows:

"Before you finished your shorthand course, did you know Mr. Frank?"

"Yes."

"Where did you meet him?"

"I met him at the factory."

"How did you happen to go there?"

"I went there with Professor Briscoe to see about getting a position as stenographer."

"Did you get the position?"

"No."

"Do you know why?"

"No, Mr. Frank said he would report to my father whether he could give me the position or not."

"Where were you working on April 26, 1913?"

"At the Bennett Printing company."

"What time did you get off that day?"

"About 12 o'clock."

"Where did you go?"

"I went up town to do some shopping on Whitehall street."

"Did you have an appointment with any one?"

"Yes, I was to meet a friend of mine named Velma Turner."

"Do you remember where you were about 1 o'clock?"

"Yes, I was coming out of Kress' and I noticed it was five minutes after 1 o'clock by [1 word illegible] & Freman's clock there on Whitehall street."

"You mean, then, the Kress store between Alabama and Hunter streets?"

"Yes."

"Where did you go then?"

"I went to Jacobs' corner at Alabama and Whitehall streets."

"Do you recall seeing Mr. Frank there?"

SAW FRANK AT 1:10.

"No, I didn't see him when I first got there, but after I had been there about five minutes I turned around and saw him standing near the corner."

"What time was it when you saw him, then? Just give us your best judgment."

"I should say it was about ten minutes after 1 o'clock."

"How long did he wait there for his car?"

"I should say until about 1:20 o'clock."

"When was the first time you heard that Mr. Frank was involved in this trouble?"

"About the middle of the next week."

"Did you tell anyone about having seen him there on the corner?"

"Yes, I told my father."

"Do you know whether he told anybody?"

"No, I don't know."

HOOPER CROSS-QUESTIONS.

At this point the cross-examination was taken up by Attorney Hooper.

"The Bennett Printing company is owned by Montag Brothers, isn't it?"

"No, I don't think so."

"You say you came out of Kress' about five minutes after 1 o'clock?"

"Yes."

"You say you stood on the corner a good while at Jacobs'?"

"Yes."

"Yes. I stood there waiting for my friend about fifteen or twenty minutes."

"You say you saw Mr. Frank as soon as you got there?"

"No, I think it was about five minutes after I got there."

"You noticed Mr. Frank in that large crowd, did you?"

"It was not crowded where I was standing."

"Refresh your memory, and see if it wasn't packed and jammed there on the corner. The Memorial day parade came along about that time, didn't it?"

"No, the parade came along about 3 o'clock."

"It was crowded then, though, wasn't it?"

"No, there was plenty of room there where I was standing."

"Where were you standing?"

"I was standing on Alabama street a little above Whitehall street, against the building. And there was plenty of room where I stood."

"The corner is about the worst place for a crowd that you can find, isn't it, when people are waiting for a parade to come by?"

"I wasn't right at the corner. I was away from the corner a little."

"How long were you there?"

"I reckon I was there about five minutes before I saw Mr. Frank."

"You couldn't see Davis & Freeman's clock from there, could you?"

"No, but I saw it when I went back to Kress'."

"How do you know it was five minutes before you saw it?"

"That's my best judgment as to the time."

ASKED ABOUT CROWD.

Mr. Hooper devoted the great part of his examination to questions about the crowd, which Miss Curran finally admitted was large all around, but that immediately next to her the space was clear and that no one was standing between her and Frank when she saw him. He did not speak to her and she did not speak to him, she said. She assumed he did not recognize her. Asked whom else she saw there, she mentioned the young lady whom she had gone there to meet; her mother, father and brother, and a Mr. Ogletree, whom she had met at business college. She declared that she could not be mistaken in the time. Mr. Hooper asked her if Kress' store, where she said she was just before 1 o'clock, did not close at 12 that day. She was positive it had not, for she was in it at a minute or so after 1, she said. Though the crowd was large, she said, she had seen bigger crowds on that corner. She was certain it did not take her more than one or one and a half minutes to walk from the store to the point where she saw Frank. She saw him only the one time, she said, and did not know when he came up or when he left.

SAW FRANK AT 2 P. M.

Mrs. M. G. Michael followed Miss Curran on the stand. She is the wife of a wealthy citizen of Athens. Mrs. Michael said that she is an aunt of Mrs. Lucille Frank. On Memorial day, April 26, she said, she was stopping with her sister, Mrs. C. Wolfsheimer, 387 Washington street, Atlanta. She said that she saw Leo M. Frank about 2 o'clock that day in front of the Wolfsheimer residence. Asked how she fixed the time, Mrs. Michael said that her youngest son, David Michael, was going to grand opera that day and he had just left the house. She was on the front porch, she said, and Frank came by, and stood by the steps at the sidewalk and they had a casual conversation. Among the others who were there were her son, Jerome Michael, an attorney of Athens, who has been in the court assisting in the Frank defense; and her nephew, Julian Loeb. Mrs. Wolfsheimer, she said, was not on the porch at the time, but came out a little later. She saw Frank go up

Washington street to Glenn street, she said, and she saw him when he caught the car there. She saw him again Sunday morning at the Selig residence, she said. That ended the direct examination.

Mrs. Michael was cross-examined by Attorney Hooper. She said that the last time she saw Frank was at 2 o'clock at the corner of Glenn street. She could not tell what car it was he took.

"He came by to inquire how everybody was, you say?" asked Mr. Hooper.

"Yes."

"Was this a usual thing for him to do?"

"Well, he saw that I was in town and he came over to speak to me."

"You say he was collected, and had no scratches or bruises about him?"

"Yes."

In answer to other questions, she said she had arrived in town that morning and had left for her home in Athens Sunday afternoon.

Jerome Michael, her son, was the next witness.

Mr. Michael, answering Mr. Arnold, said that it was between 5 minutes to 2 and 2 o'clock when Frank came to the Wolfsheimer home.

WATCH IN HIS HAND.

Asked by Attorney Arnold as to how he fixed the time so closely, he replied: "I was going to call on a young lady that day, and I had my watch in my hand most of the time."

The Wolfsheimer home, said he, is three doors from the corner of Georgia avenue, and he saw Frank approaching the house before Frank got there.

Attorney Hooper asked the witness a few questions on cross-examination, but developed nothing in particular.

MRS. LEVY ON STAND.

Mrs. Albert B. Levy, of 69 East Georgia avenue, was called to the stand. She testified that she lives directly across the street from the Selig home, where the Franks lived. She saw Frank at 1:20 o'clock on Memorial day, she said, as he got off the street car and went to his home. Asked as to how she fixed the time, she replied that she had been dressing and was watching for her son to come home for lunch. She said that there was a clock on her dresser. The time, therefore, was impressed on her mind. Several days later, she said, after Frank had been arrested the matter was impressed more firmly on her mind. Attorney Hooper cross-examined the witness.

"The cars run a ten-minute schedule there, don't they?"

Mrs. Levy replied that she did not know; she had never paid any attention to the cars. As nearly as she could recollect, they were running frequently on that day on account of it being Memorial day.

"When did you first tell about seeing Frank?"

"During the first few days after the murder?"

"Was there anything said about what time he was accused of committing the crime, when you thought of the time?"

"No."

"Can you tell what time of day anything happens, by your clock? What time did your son get home yesterday, for example?"

"Twelve-thirty," replied the witness.

"What time did he get home the day before?"

"Twelve-thirty. He always comes home then."

"Oh, you're just judging from his custom, then."

"Yes."

"Well, on Memorial day he already had his lunch, hadn't he?"

"No, sir."

Attorney Arnold asked the witness another question. It was in regard to a sick woman whom Mrs. Levy had also she visited that day. Mrs. Levy said the woman is Mrs. J. A. Hirsch, and that she arrived at Mrs. Hirsch's home at 15 minutes to 2 o'clock.

MRS. WOLFSHEIMER CALLED.

The next witness was Mrs. Wolfsheimer, of 387 Washington street. She said she lives in about the third house from the corner of Georgia avenue; that she saw Frank come up on the front steps, about 2 o'clock in the afternoon, to the best of her recollection.

She said that when she walked out on the porch Frank was there; and that she was called back into the house after he went up to the corner to catch his car, but that she did not see him board the car.

She testified that he did not appear to be nervous, and that she saw no scratches or bruises on his face. She said that she saw him two or three times the next day also, and that she then saw no bruises or scratches on his face.

Mrs. Wolfsheimer was cross-examined by Attorney Hooper.

"Was there anything to call your particular attention to Mr. Frank?"

"Not specially."

"What fixed the time in your mind?"

"My husband hadn't yet come to dinner. We ate dinner at 1:30 and had finished and come out on the porch."

"You were not looking for any marks on his face, were you?"

"No, certainly not," indignantly.

JULIAN LOEB TESTIFIES.

The next witness was Julian Loeb, of 380 Washington street, diagonally across the street from the Wolfsheimer residence.

He testified that he is a cousin of Leo Frank's wife, and that he was on the front porch at the Wolfsheimer house on April 26 when Frank came up on the steps. He said that to the best of his recollection, the time was between 1:50 and 2 o'clock.

He said that Frank invited himself and young Mr. Michael to attend the meeting of the officers of the B'nai B'rith lodge, the next morning, which was Sunday. He said that Frank then was the president of the lodge. Attorney Arnold asked what sort of an organization is the B'nai B'rith.

Mr. Loeb started to say that it is a charitable organization, but Attorney Hooper objected on the ground of irrelevancy, and was sustained by the court. The witness testified that he saw Frank leave and go up to Glenn street to the corner, he supposed to catch a car.

He was cross-examined briefly by Mr. Hooper.

"Was there any special reason for you to notice the time?"

"I judge the time by the time I left the office where I am employed."

Miss Rebecca Carson, forelady in the assorting department on the fourth floor of the National Pencil factory, was called. She entered the court room wearing a freshly starched and ironed blue dress and a black hat, and greeted Frank very cordially with a smile.

She testified that she has been employed by the National Pencil company since last April three years ago, and has been forelady in the assorting department for three years, with from thirteen to fifteen girls working under her. She was examined by Attorney Arnold.

"To what extent," he asked, "can you hear the elevator running when you are on the fourth floor and the other machinery in the building is not running?"

The witness answered she remembered noticing the elevator running under these circumstances last Christmas. She said the other machinery in the building was not running at the time, and

that she heard the vibration of the elevator motor below the fourth floor, that she saw the ropes move, and that she heard the cables knocking against the sides of the elevator shaft.

She testified further that she got her pay about 3:30 Friday afternoon, April 25 and that she did not come back to the factory on the next day, April 26.

"Did you see Mr. Frank on Memorial day?" asked Attorney Arnold.

"I did."

"Where?"

"In front of Rich's store."

"About what hour?"

"Between 2:20 and 2:26 o'clock."

"What was he doing?"

"He was looking at the parade."

"Did you speak to him?"

"Yes, we both spoke."

"Do you remember seeing him again that afternoon?"

SAW FRANK AT 2:50.

"Yes, about 2:50. I remember the time because I noticed the clock. I was standing in front of Brown & Allen's drug store and looked across the street and saw him go into Jacobs' pharmacy."

On continued direct examination, Miss Carson testified that she returned to the factory Monday morning and saw Frank and Jim Conley. She testified that on Monday morning she and her mother talked to Jim Conley on the fourth floor.

She testified that Jim Conley brought the raw pencils to the fourth floor, and she asked him where he was on Saturday, and he said he was so drunk he didn't remember.

She said that Snowball (a negro witness who already had testified) was present at the time and when she asked him where he was on Saturday he replied that he could prove where he was.

She testified that Jim Conley went over to her mother's machine and her mother said: "They haven't got you, yet, Jim?" And he said "No, I haven't done nothing." She testified that her mother said then "But they've got Mr. Frank, and you know he hasn't done anything either." She testified that Jim Conley replied "No, he's as innocent as you, and I know you ain't done nothing."

She testified that her mother then said that in her opinion, when they found the murderer of Mary Phagna, it would be the negro that Mrs. White spoke of having seen downstairs on the first floor Saturday afternoon. She testified that when her mother said this, Jim Conley dropped his broom and walked away.

When Miss Carson commenced to testify as to what her mother said and what Jim Conley said, there was an objection by the state. In reply to the objection attorneys for the defense stated that they were laying a foundation for further testimony, and on this ground the court admitted the questions.

HOOPER TAKES WITNESS.

Attorney Hooper cross-questioned Miss Carson.

"When was it you say Conley made that remark?"

"Monday morning about 8 o'clock."

"Then you went right straight and told your mother?"

"Yes."

"Speaking of this elevator—it really runs very smoothly, compared with other elevators, doesn't it?"

"I never have noticed others especially, but I know that this one makes a noise."

The witness admitted that she could not hear the elevator when the machinery in the factory was running. She also admitted that she remembered hearing it only the one time—Christmas. She also admitted that if the doors were closed, even if the machinery was not running, she might not hear the elevator.

Mr. Hooper questioned the witness about the first time that she claimed to have seen Frank on Memorial day. She said that she

was sure of the time because she had looked at the clock on Whitehall street near Kress'. She wasn't sure whether it was Haynes' clock or the Davis & Freeman clock. She explained that she said she saw Frank between 2:20 and 2:25 because it was only a minute or two after she had seen the clock.

She looked at the clock because her sister, who was with her, asked her the time. She witness said she had been forelady for three years; that her salary is \$10 per week. The last time it was raised, said she, was in January.

Asked especially if it had been raised since the tragedy, she indignantly said, "No, indeed." Asked if Frank was a friend of hers, she said, "Yes, in a business way." She said that she had never worked later than 1 o'clock on Saturday afternoons, and did not know whether Jim Conley stayed at the factory, but had heard that some negro stayed to sweep.

"That was just a chance conversation with Conley?" asked Mr. Hooper.

"Yes."

"It was before the blood was found on the office floor?"

"I don't remember when it was found," said the witness.

"So Conley said he was so drunk on Saturday that he didn't know where he was or what he did?"

"Yes."

"He never admitted to you before that he had been drunk?"

"No."

"Conley was not suspected then, was he?"

"No."

"You didn't think much about the conversation, did you?"

"No, but I told my mother. I tell her everything."

"Then it didn't make an impression?"

"Yes, it did," said the witness.

"When did you tell Darley about it?"

The witness said she didn't know, but before Frank was arrested.

"Whom else did you tell about it?"

TOLD MR. ROSSER.

"I told Mr. Rosser."

"When did you tell him?"

"I don't remember. He came to the factory and called for some girls to tell him what they thought about Conley, and I was one of them."

"Did he know of this conversation before that?"

"I don't know."

"Who else was present?"

"Some other girls, but I don't remember."

"The second time you saw Frank was where?"

"I was at the corner of Alabama and Whitehall and saw him go in Jacobs'."

"What did you do?"

"I was on my way to catch my car then."

"Did you ever see that blood?"

"Well, I've seen blood in the factory," said the witness quickly.

"Well, did you see that spot on the second floor after the murder?"

"I didn't go into the metal room till Tuesday, and I walked through there with Mr. Frank, and I didn't look for the spot."

"Oh, yes. You were talking to Frank about the crime?"

"I only shook hands with him and told him I was glad he was back with us. That was all I said about it."

The witness was excused, and Cohen Loeb, of 445 Washington street, a brother of Julian Loeb, was called to the stand.

ON CAR WITH FRANK.

He testified that on Memorial Day he and Frank rode to town on the car together in the afternoon about 2 o'clock. He boarded a Washington street car at Georgia avenue and took the seat with Frank, who had gotten on at Glenn street. He said that the car does not go down Georgia avenue by Pulliam. He got off at Hunter street, he said, in front of the capitol, about 2:10 o'clock. The car was blocked there, and Frank got off just before he did. He said that he noticed no scratches or bruises on Frank, and there was nothing unusual in his demeanor. The witness said he thought Frank had on a brown suit and a derby. Asked whom he saw on the trip to town, he said that while the car was blocked he saw Mr. Arthur Harris and Ike Liebmann pass in an automobile. He said he did not know whether or not Frank saw them.

He said those two were the only people that he recognized. He and Frank sat on the right front side of the car with Frank next to the window.

Cross-examined by Mr. Hooper, the witness said that he knows Mr. Hinchey (a previous witness for the defense).

"Did you see him there in front of the capitol?"

"I didn't recognize him, but I remember noticing his car."

"Oh yes." "Why did you notice the car?"

"It's a dark color."

"There are a thousand other dark machines in town, aren't there?"

"I suppose so."

"What was the exact color?"

"Dark maroon."

"How many passengers car is it?"

"It is a touring car."

"What was the number?"

"I don't know." [...]

FRANK'S STORY UPHELD BY MANY WITNESSES

[...] "Well, how do you know it was his car?"

"I heard it afterward. And then I remembered noticing the car, particularly because it ran in front of the street car and struck against it." The witness said he heard a noise but there was no [1 word illegible].

Asked if it is not an invariable custom for a street car to stop after any sort of a collision, and get the names of witnesses, Mr. Loeb replied that they do when the collision is serious, but not always. Asked if he had ever been on a street car and seen any accident, however little except that one, that was not investigated, the witness replied that he had not.

"Come down," said Mr. Hooper.

The next witness, Charles Lee was called. He did not answer and the defense called Henry Smith to the stand. He testified that he has worked for the National Pencil company a little over two years, and had been employed in the metal department about nine months.

LOOKING FOR REWARD.

"Do you know a man named Barrett over there?" asked Attorney Arnold.

"Yes, sir, I work with him."

"Did he ever talk to you about rewards?"

"Yes, sir."

"What did he say?"

"Well, he said there was about [1 word illegible] reward and he thought if anybody was to get it he would get first hook [1 word illegible].

"What did he say about it?"

"He said he found the blood and the hair and he thought he was entitled to some of it."

In answer to other questions, the witness said that Barrett had talked to him six or seven times about this reward. He testified

that Barrett had gone through the pantomime of counting out imaginary bills in his hand.

Attorney Hooper cross-examined the witness.

"This Barrett is a sensible sort of man, isn't he?"

Attorney Arnold objected to the question and Attorney Hooper withdrew it.

In answer to a series of questions by Attorney Hooper the witness said Barrett would count this imaginary money and laugh. He said the first time Barrett talked about rewards was about a week after the arrests, and that he last time was about three weeks ago.

HARRY LEWIS CALLED.

Charles Lee was called again but again did not answer. The defense called Harry F. Lewis to the stand. He lives at [number illegible] Underhill avenue, Brooklyn, N. Y. Mr. Lewish said that he is a practicing lawyer and at one time was assistant to the district attorney in Brooklyn.

He said he knew Frank twelve years; that he had known him when he lived on Lafayette avenue in Brooklyn and later when Frank moved to within two doors of his, the witness' home. He testified that he knows Frank's general character and that it is very good.

Attorney Hooper cross-examined the witness, asking him how long ago it was he knew Frank. "It was about five years ago ago, before Frank came south," he said. The witness was excused and Herbert Lasher, of Fleischmann, N. Y., was called. He replied to a question by Attorney Arnold, that he manages his father's estate [1 word illegible] the town. He said that he was in the same class at Cornell and that they roomed together and ate together for two years. He said that Frank's general character was very good.

Attorney Hooper cross-examined the witness. "You mean it was very good when he was at Cornell?"

"Yes, he associated with the best class of fellows at the university."

"You were one of them, too, of course."

"Yes."

In answering the other questions the witness said he kept up a correspondence with Frank for two years after they graduated and that he also had [1 word illegible] Frank since their graduation.

CHARLES LEE ON STAND.

Charles Lee was called and took the stand [words illegible].

[words illegible] by the National Pencil factory and that he lives at 119 Washington street.

"Do you remember about an accident [words illegible] in the pencil factory on [words illegible] in 1912?"

"Yes."

"Where did he get hurt?"

"By the eyelet machine."

The witness testified that one of Duffy's fingers was cut to the bone and that it bled freely; that Duffy went to the office to get his wound dressed, and then was taken to the Atlanta hospital. He said that a lot of blood from Duffy's finger fell on the floor.

"Did he go by the women's dressing closet in the metal room?"

"Yes."

"Did he bleed or not, at that place?"

"He bled there."

"Did you see a man named Gilbert who was hurt there same time, bleeding?"

"No, I didn't see him until after his wound was dressed."

DORSEY EXAMINES.

Solicitor Dorsey cross-examined the witness vigorously.

"How long did you say you've worked at the pencil factory?"

"Two years and four months."

"How long have you lived in Atlanta?"

"All my life."

"What are you wages?"

"Thirty-two and a half cents an hour."

"How long have you been getting that?"

"Only two weeks."

"What did you get before that?"

"Thirty cents an hour."

"That's a partly good raise, isn't it?"

"Not so much."

"Who gave it to you?"

"Mr. Darley."

"How long did you get this raise, after you told about seeing those men bleed?"

"I never told them about it."

"How did they know that you knew about this blood being on the floor?"

"Well I signed a statement right after it happened that I witnessed the accident."

The witness testified that in answer to other questions that about two months ago Schiff had the statement in his hand and was looking for blood on the floor where the man got hurt. The witness said Schiff was looking for all the evidence he could get for the defense.

"When was it Gilbert got hurt?"

"Last year some time."

"Where is the eyelet machine?"

"In the metal department."

"What part of the metal department?"

"About the middle."

Solicitor Dorsey then had the witness point out the machine on the diagram of the factory.

"In how many places did you see the blood drop?"

"Well, there was a stream of it."

Solicitor Dorsey asked the witness several questions about the size and frequency of the drops of blood. The witness replied that he had paid no particular attention to their size.

"Which one of this hands was cut?"

"His right hand."

"Did he stop on his way to the office?"

"Yes."

"Where?"

"In front of the dressing room door."

"How far from the water cooler?"

"About three steps."

"Did you speak to him?"

"Yes."

"What was said?"

"He asked me which one of the offices he should go into?"

"How long did he stand there in front of the dressing room?"

"About eight or ten seconds."

"How big a splotch on the floor did the blood make?"

"I didn't notice it."

"Who cleaned up the blood?"

"It wasn't clean up then. The floor never was cleaned up except once a week."

"Did you notice the blood spots after that?"

"No."

"Could you go there now and find them?"

"I don't know as I could, exactly."

"Who else besides you saw him get his finger cut?"

"Nobody else."

"Did anyone else see him standing there in front of the dressing room?"

"Yes, Ramsey saw him, and one of the girls."

In answer to questions, the witness testified that he has lived on Washington street about a year; that his father is a candy manufacturer, and that they formerly lived on Whitehall street.

"Where else did he stop?" referring to the man whose finger was cut.

"Nowhere else except in the office."

"Did you see any blood there in the metal room on April 26?"

"No."

"You didn't go in there at all?"

"Yes, I went in after they had chipped it up."

"How close was that stain that they chipped up to the stain left by the man with his finger cut?"

"Just a few steps. It might have been just the same spot."

"Now you tell us that it was the exact spot, then, do you?"

"No, I'm not so certain."

Toward the close of the cross-examination, Attorney Arnold registered an objection to the manner in which the solicitor was proceeding, and in the exchange of words which followed Attorney Arnold remarked that Solicitor Dorsey didn't examine the witness, but quarreled with him.

SIG MONTAG CALLED.

The next witness called by the defense was Sig Montag. He testified that he has been in Atlanta twenty-five years; that he is in the stationary manufacturing business, and that on April 26 he was treasurer of the National Pencil company. He testified that the pencil company got its mail at the office of Montag Brothers, about two blocks from the National Pencil factory, and that Frank

came there every day except Sundays, in the morning about 10 o'clock to get the mail and discuss the pencil company affairs. He testified that on April 26 Frank came to his office about 10 o'clock; was there approximately an hour, and talked to him, to his stenographer, Miss Hattie Hall, and to Harry Gottheimer.

He testified that prior to about a year ago, he, Montag, went to the pencil factory every Saturday afternoon, and that invariably he found Frank in the office at work on the finance sheets.

Mr. Montag's attention was directed to the diagram of the pencil factory. He said that this diagram did not show the ground floor except in front.

In answer to questions, he testified that up to January 1 the Clark Woodenware company had nothing to do with that portion of the ground floor.

He testified that the woodenware company had an office on the ground floor at the street front, and that he thought they used the main entrance for shipping goods. At this point the model of the pencil factory was brought in and set on a table in front of the jury. Mr. Montag pointed out the space on the right of the entrance on the ground floor that had been occupied by the office of the woodenware company, except that its employees entered there.

Mr. Montag testified as to events on Sunday, April 27. He said that his telephone is on the second floor of his home about thirty feet from his bed. He said he did not hear the telephone ring that morning but that it roused his wife and she came and waked him.

TELLS OF TRAGEDY.

He said that a man at the other end of the line asked him if he could identify the body of a girl who had either died or been killed in the pencil factory, and that he told the man he would not and referred him to Darley. He said that after breakfast Sunday morning Frank came to his home and reported to him the tragedy which had occurred at the pencil factory. The weather that

morning was chilly, said he, and the weather on Saturday was cloudy and raw.

"What was Frank's appearance that morning? Was he nervous?"

"He was no more nervous than I was."

"Were you nervous?"

"Yes, sir. I was very much so. I think I trembled some. My wife also was very nervous."

"Was Mr. Frank nervous?"

"Yes, he was agitated, too."

"Where were you sitting then?"

"We were seated in my front sitting room."

"What opportunity did you have for observing Frank closely?"

"We had plenty of light because there are three large windows in the front sitting room."

"Did you notice any scratches on his face, or any bruises, or did you notice any spots on his clothing?"

"I sat just in front of him, but I didn't notice any of those things."

Mr. Montag continued that he went to the factory Sunday morning, April 27, and that together with Darley and a machinist he made a general examination of the building, including the metal room. He said he saw nothing on the floor of the metal room to attract his attention, and that Darley did not call his attention to anything.

Mr. Montag stated that he often had noticed the white lubricant, used in the metal room. He frequently saw where it had been spilled, he said. For eight years prior to the time the pencil factory moved into the building now occupied, that his paint shop had been operated on the second floor of that building. In reply to a question, he said that had been a great many accidents. The injured people were conducted to the office on the second floor, he said. He first heard that the detectives had Frank at headquarters on Monday, April 26, about 9 a. m.

"You have been associated intimately with Frank in business, haven't you?" asked Mr. Rosser.

"Yes."

HE SENT LAWYER.

"Has he a wide or limited acquaintance?"

"A limited acquaintance."

Mr. Dorsey objected, but was overruled.

"Well, because of his limited acquaintance, what did you do?"

"I telephoned for Mr. Herbert Haas, my personal counsel, and also the attorney for the pencil company, and asked him to go to headquarters."

"Did he want to go? And if he did not, why not?"

"He didn't want to go because his wife was expecting a new member of the family."

"Well, what was done?"

"I persuaded Mr. Haas to go, and went around for him with my car."

Over the objection of the state, Attorney Rosser brought from the witness that Haas was refused admittance, and that they then telephoned for him, Mr. Rosser. That was between 10:30 or 11, according to the witness, and in 30 or 40 minutes Mr. Rosser arrived and went upstairs at headquarters.

Judge Roan explained that he allowed this testimony because it showed motive.

In reply to a question, Mr. Montag said that Haas and Detective Black left headquarters with Frank 30 minutes or an hour after the arrival of Mr. Rosser.

EMPLOYED PINKERTONS.

Mr. Montag said that he received weekly financial sheets from Frank, who brought them over himself usually on Sunday morning. The Monday after the tragedy, he said, he didn't receive

the financial sheet until about 3 o'clock in the afternoon. In answer to another question, he said that after that Schiff called him up and asked him about the employment of the Pinkertons. Mr. Montag said he told them to employ the Pinkertons and to give all the detectives any assistance in their power in getting evidence.

Mr. Rosser asked the witness if he knew of any anticipated raise for Miss Hall, the stenographer at Montag Bros. He said that he did not, as he employed only the heads of departments.

Solicitor Dorsey cross-examined the witness.

"You say that Frank had a limited acquaintance here?"

"Yes."

"Well, he'd been here six years, hadn't he?"

"Just a little more than five," said the witness.

"Didn't he know Mr. Haas here, and all of the attorneys connected with the patent litigation against the American Pencil company?"

"I don't know."

"Isn't he president of the B'nai B'rith?"

"I think so."

"How many members has that organization?"

The witness said he guessed it has between 400 and 500.

"What do you mean by saying that he had a limited acquaintance?"

DIDN'T ASK FOR ATTORNEY.

"I mean that the people around police headquarters probably wouldn't know him."

"Frank didn't asked for an attorney."

"No."

"Frank didn't ask for the employment of the Pinkertons?"

"I only talked to Schiff about that."

"You saw Frank about 9:30 or 10 o'clock Sunday morning?"

"Yes."

"Why did he come to see you?"

"He wanted to make a report about the tragedy."

"You already knew about it?"

"Yes, but he didn't know that I knew."

"You say he was agitated?"

"Yes."

"Very perceptibly."

FRANK WAS AGITATED.

"Knowing him as I do, I noticed it. His general appearance was that of nervousness."

"Did he explain his nervousness?"

"Yes. He said that they carried him into a dark room and suddenly flashed on the light, and he saw the girl."

"He said he saw her, did he?"

"Yes, he described her appearance. He said her face was scratched, one eye was discolored, and her mouth was full of sawdust."

At this point, the witness said in replying to one of the solicitor's questions, "Mr. Dorsey, don't twist anything I say."

"He will anyhow," said Mr. Arnold in an audible aside.

ATTORNEYS CLASH.

Both Attorney Arnold and Solicitor Dorsey charged each other then and there with improper conduct, and for a minute or two a physical encounter between them in court seemed imminent. The solicitor vehemently demanded that Mr. Arnold's remarks be ruled from the record, and Judge Roan ordered him to go on with the examination of the witness.

"Frank explained his nervousness, did he?" asked the solicitor.

"Well, he told what he had seen."

"Didn't he say anything about having been to police headquarters, nor request that you get him a lawyer?"

"No."

"Well, who made the trade with Haas?"

"There's been no trade."

"Have you contributed or promised anything toward his fee, or has the National Pencil company?"

"No."

"Have the Pinkertons been paid?"

The defense objected. Solicitor Dorsey argued his question, saying, "This is relevant, your honor, to show the attitude of the officials and the National Pencil company generally, and we may make it apparent that there is a reason for the Pinkertons not having been paid. Can't we show that the Pinkertons have asked for their money and have not received a cent?"

Judge Roan allowed the question.

PINKERTONS SEND BILLS.

Mr. Montag replied that the Pinkertons had sent two or three bills but hadn't requested any pay.

"Has Pierce asked you for any money?"

"No."

"Have you received the reports of the Pinkertons?"

"Yes."

Attorney Rosser objected. Judge Roan said, "Mr. Dorsey, I don't how far you intend to go into this." "I am going just as far as you will let me go," said the solicitor. "I want the jury to know that he knew when the stick was found and when the pay envelope was found, and that he kept the finds from the police."

"Well, I'm objecting to all of it," said Mr. Rosser.

Judge Roan ruled, "If your purpose is to show that this witness is biased, you can pursue this line of questioning."

"You got the report of the finding of that stick, didn't you?" asked the solicitor.

"I did."

"And of the finding of the envelope, too?"

"I did."

"You were so much interested in this case that you hired the Pinkertons. And yet you didn't tell the police about these discoveries?"

Attorney Rosser objected and was sustained.

"What did you do about these finds?"

"I gave the reports to Mr. Rosser."

"Did you request Pierce, of the Pinkertons, to keep these discoveries from the police?"

"No, sir."

"How many reports of accidents have you received from the pencil factory?"

"It's impossible for me to tell. There's a small accident about once a month, I think."

Mr. Montag, answering questions, said that he remembered the accident to Gilbert because it was the most serious that ever had occurred in the pencil factory. Either Frank or Schiff told him about it, he said.

"You say Frank carried the financial sheet to you on Monday, April 28?"

"Yes."

"Before that he mailed it, you say?"

"No, sir, I didn't say that."

"Sometime in June were you in the pencil factory when some detectives and Mr. Hooper were over these?"

"Yes, but I wasn't with them."

"How long after Mary Phagan's death did the insurance people order you to clean up that basement?"

"Within the week, I think."

"Were you in the basement the next day after it was cleaned up?"

"No, sir."

"Do you know where the shellac is kept? You seem to know all about everything at the pencil factory?"

"No, sir. I know it should be kept in a cool place. That's all."

"Did you make any effort to get a horse and buggy on the afternoon of Saturday, April 26?"

"No, sir."

DIDN'T CALL LIVERYMAN.

"Did you call up the residence of W. D. Brown, a liveryman, about 4 o'clock that afternoon?"

"I did not."

"Are there any other Montags in Atlanta?"

"Three of them."

"Who are they?"

"My partners."

"And you didn't authorize anybody to call up W. D. Brown on that afternoon, did you?"

"No, sir."

That concluded the cross-examination. Attorney Rosser questioned the witness in re-direct.

"Isn't it a fact that when you received these reports from the Pinkertons, you understand that the police already had duplicates of them?"

"Yes, sir."

"You don't know, do you, whether or not Frank knew me before that morning when I went down to the jail?"

"I don't know that."

Mr. Montag was excused from the stand.

At the instance of the solicitor, subpoenaea duces tecum were issued to the pencil factory officials and certain insurance officials commanding them to bring into court papers relative to accidents in the factory.

Court recessed at 12:35 until 2 o'clock.